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AF #15
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT OFFICE BOARD OF APPEALS

APPLICANT: Dziedzic, Edward

G.A.U.: 3632

SERIAL NO.: 09/348,742

EXAMINER: A. Wujciak

FILED: July 6, 1999

St. Louis, Missouri

FOR: Banded Mount

February 1, 2002

D.N.: 7038

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

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MAR 08 2002

RESUBMISSION OF BRIEF

GROUP 3600

Sir:

Enclosed is the revised brief for applicant in an effort comply with the
examiner's request.

Respectfully submitted,

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PMD/tm

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Attorney

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BRIEF FOR APPLICANT

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Citation of Cases and Statutes

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Statutes:

35 U.S.C. § 102 (b).....6, 7, 8

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I. Real Parties in Interest

The parties in interest in this particular application include the individual inventor, Edward Dziedzic, and in addition, this invention and patent application has been assigned by the inventor to his company, Aluma-Form, Inc., a Tennessee corporation, located in Memphis, Tennessee.

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II. Related Appeals and Interferences

There are no related appeals, or interference proceedings, pertaining to the subject matter of this patent application.

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III. Status of Claims

The examiner entered a final rejection to this application on December 19, 2000.
The claims rejected in that final rejection were claims 2-6, and 8.

No further amendments were attempted to be made after the final rejection.

This appeal is upon that final rejection of claims 2-6 and 8, as set forth in the appendix.

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IV. Status of Amendments

As previously reviewed, the final rejection was entered on December 19, 2000.
No further amending was done to the claims after the final rejection.

V. Summary of the Invention

This invention is upon a removable mount 20a, that is secured to a utility pole or the like, for attachment of a stabilizer wire thereto. The mount is provided including a generally flat, rectangular base plate 22, having a top surface 24 and a bottom surface 26. Integrally formed extending upwardly from the top surface is a wire attachment loop 30 on a raised boss 28 positioned substantially centrally on the top surface of the base plate. A loop is designed to accept the stabilizer wire, or the like, when installed. The top surface of the base plate also includes at least one pair of transverse raised ribs, as can be seen at 44a and 48a, one each of the pair of ribs positioned on each side of the boss, and spaced apart from the boss, so as to create a pair of shallow channels 46a and 50a, as noted. Attachment bands, similar to those as shown in Fig. 11, locate over the shallow channels and around the utility pole, and when tightened thereto, provide a very sturdy mount connection of the removable mount to the utility pole, during usage for holding a stabilizer wire in place.

It will be noted that the various raised ribs run transverse to the horizontal length of the base plate, and parallel to the ends of the base plate. The various shallow channels previously described are configured with appropriate widths and depths to seat a securing or tightening band therein, as described.

To prevent slippage of the mount 20a on a pole or other mounting surface, the bottom surface 26 includes a first depending serrated edge 52, running along the length of the one edge of the bottom surface, and a second depending serrated edge 54 extending along the length of the opposite edge of the bottom surface. As will be appreciated, the respective serrated edges 52 and 54 are comprised of an aligned array of individual pointed teeth 56, as noted. The teeth 56 are designed to bite into the mounting surface when the mount 20a is attached to a pole, of the type as previously explained with respect to Fig. 11.

VI. Issues

The primary issues set forth in this appeal, and as expressed in the examiner's final rejection dated December 19, 2000, is whether claims 2-6 and 8 are properly rejected as being anticipated under 35 U.S.C. §102 (b) of the Patent Act. The examiner states that the invention, as claimed, is anticipated by U.S. Patent No. 5,098,051, to Aldridge, et al.

VII. Grouping of Claims

The examiner finally rejected claims 2-6, and 8, under 35 U.S.C. § 102 (b). These claims essentially are grouped together, generally containing a single invention, as defined in claim 8, and limited by the further limitations added by claims 2-6, to provide a single group of claims subject to the anticipation rejection.

These claims under appeal, claims 2-6, and 8, do stand or fall together, when being processed in this appeal.

VIII. Argument

The examiner has taken the position to enter a final rejection that the invention described by the claims of this current application are anticipated by prior patent No. 5,098,051, to Aldridge, et al. Please recognize that Aldridge '051 is owned by a common assignee to the invention of this current application, namely, Aluma-Form, Inc., of Memphis, Tennessee.

To provide anticipation, the claims of this current application must read directly upon the disclosure as shown and described in the said '051 patent. Primarily, the examiner apparently applies the subject matter as shown in Figs. 13 and 15, of Aldridge, as providing anticipatory art. With respect to Fig. 13, there is just no structure shown that provides any type of an integral boss that is positioned centrally and extends upwardly from the top surface of any base plate. The loop 51, of the prior patent, as can be seen, is not centrally located, and extends off at an angle. Secondly, the extending edges 56 through 59 as shown in Fig.15 of the '051 patent do not extend upwardly from the top surface of its base member, but rather, extend inwardly, as can be noted. In addition, claim 8 of this application also defines that there are a pair of serrated edges that extend downwardly from the base plate, with one of each of said depending serrated edges being located proximate the front and back edges of the base plate, and extend longitudinally therewith. This can be seen in Fig.8 of the drawings for this current application where the serrated edges 52 and 54 extend downwardly, and longitudinally along the length of the front and back edges of the shown mount. This is not disclosed in any of the figures 13-19 of the cited '051 patent. The protrusions extending from the back of the base member 54 and 55 of the Fig.15 embodiment of the said '051 patent, as noted, are simply ridges, and not serrations, and extend in an opposite direction from that shown and described for the current invention.

Hence, in light of the structural differences that do exist and prevail between what is claimed and the current application, as identified in claim 8, from what is shown in the prior patent, it is questioned whether anticipation is really made out, under § 102, of any of the amended claims of this application, in light of such prior art. None of these

structural differences, as referred to above, and as explained in detail, and as set forth in claim 8, can be found in the earlier Aldridge et al. patent. The particular banded mount of this current application is a further modification and improvement upon the earlier Aldridge patent, as owned by Aluma-Form, Inc., the assignee of both the application and prior patent described herein.

Essentially, the examiner has rejected, in her final rejection that Claims 2-6 and 8 are anticipated by the prior patent to Aldridge, et al. Applicant has already provided argument as to why Claim 8 is distinct from what is shown in Aldridge, and therefore, avoids rejection under the grounds of anticipation, under Section 102 (b). The finally rejected claims of this application, as previously reviewed, will stand or fall together, but there are some minor differences to what is described and claimed in Claims 2 through 6, as follows to show how this particular mount, as defined in Claim 8, is sufficiently distinct in its overall evaluation from what is shown and described in Aldridge.

Claim 2 defines a second raised rib opposite from the first raised rib on each side of the boss, defining a channel between the boss and the second raised rib for seating of the attachment band. Aldridge may show second ribs 57 and 58, extending inwardly, but not from the type of boss as described in claim 8 of this application.

Claim 4 defines a third raised rib on each side of the mount, to provide for another channel on each side thereof, for accommodating double bands, on each side of the boss, for thoroughly adhering the boss to a utility pole, generally in the manner as shown in Fig.11 of the drawings for this current application. This is not shown or described in any manner in Aldridge.

Claim 5 defines how a fourth raised rib provides for dual bands to either side of the boss.

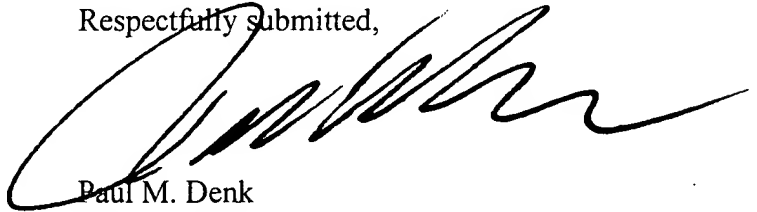
Claim 6 simply defines that the entire unit is integrally formed or cast from aluminum, which is consistent with the type of products as manufactured and marketed by Aluma-Form.

IX. Conclusion

From a review of the subject matter of this invention, as claimed, it would appear to contain patentable subject matter that has just not really been shown, in the prior art. Aldridge may be of a related structure, that may achieve somewhat similar results, but the exact structure and functionality thereof is just not attainable from Aldridge, since Aldridge, in the first instance, does not show an integral boss nor loop extending upwardly from the base plate for forming an opening for attachment of a stabilizer wire to the utility pole. The submitted Aldridge just does not show anticipating structure for the type of unit as claimed.

The Board's review of this matter would be appreciated.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Paul M. Denk', written over the typed name.

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Appendix

8. A stabilizer wire mount for attachment to a mounting surface on a pole by attachment bands comprising:

a base plate having a top surface and a bottom surface, said bottom surface having front and back edges;

an integral boss position substantially centrally on the top surface, and extending substantially upwardly therefrom;

a loop on the boss, the loop defining an opening therethrough for the attachment of the stabilizer wire;

at least one upwardly extending raised rib on the top surface at an appropriate distance from the boss, thereby defining a channel between the boss and the at least one raised rib for the seating of an attachment band; and

a pair of depending serrated edges on the bottom surface of the base plate, one of each pair extending downwardly proximate the front and back edges of the bottom surface for the base plate, said depending serrated edges disposed to engage the utility pole upon a tightening of the band.

2. The mount of claim 8 wherein the top surface includes a second raised rib positioned an approximate distance from the boss on a side of the boss opposite that of the at least one raised rib thereby defining a channel between the boss and the second raised rib for the seating of an attachment band.

3. The mount of claim 8 wherein the base plate is substantially rectangular in configuration.

4. The mount of claim 2 wherein the top surface includes a third raised rib on same side as the at least one raised rib and positioned an appropriate distance from the at least one raised rib thereby defining a channel between the at least one raised rib and the third raised rib for the seating of an attachment band.

5. The mount of claim 4 wherein the top surface includes a fourth raised rib on a side of the boss opposite that of the at least one raised rib and positioned an appropriate

distance from the second raised rib thereby defining a channel between the second raised rib and the fourth raised rib for the seating of an attachment band.

6. The mount of claim 8 wherein the elements of the mount are integrally cast from aluminum.

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